

01455

DECISION



L. Kozlowski
Proc I
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-187573

DATE: January 17, 1977

MATTER OF: M & M Welding and Fabricators, Inc.

DIGEST:

1. Requirement in IFB that successful bidder be A.S.M.E. certified and hold "A," "R," "U" or "PP" symbol stamps constitutes definitive responsibility criterion; therefore whether objective evidence of compliance has been produced is matter cognizable by GAO.
2. Affirmative determination of responsibility was supported by objective evidence of compliance with definitive responsibility criterion where successful bidder employed welder having requisite certification; therefore, determination had reasonable basis.

M & M Welding and Fabricators, Inc. (M & M), has protested the award of a contract made by the Agricultural Research Center, Department of Agriculture, under invitation for bids (IFB) No. 177-E-ARS-TQ. The IFB was for the installation of steam lines at the Agricultural Research Center in Beltsville, Maryland.

Bids were opened on September 16, 1976. Five bids were received as follows:

Mechaneer, Inc.	\$ 88,552
Zinger Construction Company, Inc.	93,280
Dunton, Inc.	93,774
M & M	102,737
M & S Mechanical Corporation.	110,577

An award was made to Mechaneer, Inc. (Mechaneer), on September 30, 1976.

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By letter dated October 4, 1976, M & M protested the award to this Office on the grounds that Mechaner did not meet the qualifications for the successful bidder contained in the solicitation.

The contention made by M & M with regard to Mechaner's qualifications essentially questions the agency's affirmative determination of Mechaner's responsibility. As a general rule, this Office does not review affirmative responsibility determinations unless either fraud is alleged on the part of the procuring officials or where the solicitation contains definitive responsibility criteria which allegedly have not been applied. Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64; Yardney Electric Corporation, 54 Comp. Gen. 509 (1974), 74-2 CPD 376.

In this case, the IFB required "The successful bidder shall be A.S.M.E. certified and hold 'A,' 'R,' 'U,' or 'PP' symbol stamps." Since there is definitive criterion of responsibility contained in the solicitation, our general policy of not reviewing affirmative determinations of responsibility is not for application.


The contracting officer states that the above-cited requirement was developed and placed in the solicitation to reflect the minimum standard of welding expertise deemed necessary for the job. Mechaner furnished the following on the welder to be employed: (1) National Certified Pipe Welding Bureau's record of welders' qualification test certifying that the welder to be employed is qualified in accordance with section IX of the A.S.M.E. Boiler and Pressure Vessel Code; (2) record of tests conducted in accordance with the American Welding Society Codes stating that the welder to be employed is qualified; and (3) A.S.M.E. stamp identification and certification for PP pipe welding for the welder to be employed. Based on the foregoing information, the contracting officer determined the welding expertise of the welder to be employed by Mechaner met the required standard of responsibility.

Our Office will not object to a contracting officer's determination of responsibility unless it is shown to be without a reasonable basis. See Leasco Information Products, Inc., 53 Comp. Gen. 932 (1974), 74-1 CPD 314. Here, the contracting officer had before him objective evidence that the welder to be employed by Mechaner met the definitive responsibility criterion. Furthermore, we do not agree with the protester's contention that Mechaner was required to have the A.S.M.E. certification in its own name to meet the definitive responsibility criterion.

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See Armed Services Procurement Regulation § 1-903.2(a)(1) (1975);
Emsec Services Corporation, 55 Comp. Gen. 494 (1975), 73-2 CPD 341.
Therefore, we believe the affirmative determination of responsibility was reasonable.

For the reasons discussed above, the protest is denied.


Deputy Comptroller General
of the United States